



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

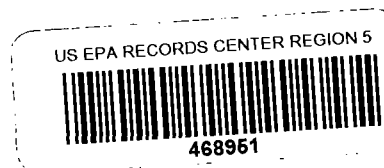
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

02/26/97 EL

REPLY TO THE ATTENTION OF:

February 26, 1997

VIA FAX AND  
CERTIFIED MAIL RETURN  
RECEIPT REQUESTED



Mark M. Davis  
Varnum, Riddering, Schmidt & Howlett  
Bridgewater Place  
P.O. Box 352  
Grand Rapids, Michigan 49501  
FAX (616) 336-7000

Re: Albion-Sheridan Landfill Site  
Albion, Michigan

Dear Mr. Davis:

This letter responds to your letter to U.S. EPA dated February 6, 1997.

Thank you for your offer to settle the City of Albion's liability at the above referenced Site for \$120,000. As you know, for reasons stated in previous correspondence to you, U.S. EPA considers the City of Albion to be potentially jointly and severally liable, along with the three other respondents to the Unilateral Administrative Order for RD/RA, for past and future response costs at the Site, which are approximately \$6 million.

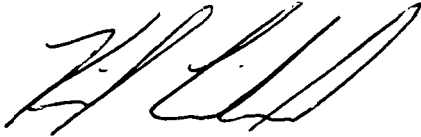
In addition, since the City of Albion failed to comply with the Unilateral Administrative Order for RD/RA at the Site, the City is potentially liable for civil penalties, under Section 106 of CERCLA, of up to \$25,000 per day for each day of violation from the effective date of the UAO, November 11, 1995.

Since the City's offer does not adequately reflect its potential liability at the Site, and does not include a penalty component to settle claims by EPA under Section 106 of CERCLA for non-compliance with the UAO, U.S. EPA hereby rejects the City's offer set forth in your February 6, 1997 letter.

Also, for you review, enclosed is a copy of a decision regarding a municipality's liability as an "operator" under CERCLA (U.S. v. Brighton Township, Case No. 94-CV-75289 (ED Mich. March 13, 1995) (currently on appeal) which, along with cases previously cited by U.S. EPA, easily supports a finding that the City of Albion is liable as an "operator" at the Albion-Sheridan Landfill Site.

If you have any questions regarding this matter, please do not hesitate to call me at (312) 886-6831.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'K. Lindland', with a stylized, cursive script.

Kurt N. Lindland  
Assistant Regional Counsel

Enclosure

bcc: J. Peterson/WMD  
G. Ginsberg/ORC